



Department of Justice

United States Attorney Carter M. Stewart
Southern District of Ohio

FOR IMMEDIATE RELEASE
FRIDAY, JULY 13, 2012
<http://www.justice.gov/usao/ohs>

CONTACT: Fred Alverson
614 469-5715
Mike Settles, Ohio EPA
614 644-2160

OHIO VALLEY COAL COMPANY PLEADS GUILTY TO VIOLATING CLEAN WATER ACT

COLUMBUS – The Ohio Valley Coal Company (OVCC) pleaded guilty today before a U.S. Magistrate Judge to criminal violations of the Clean Water Act arising from two coal slurry release incidents that polluted Captina Creek in Belmont County, Ohio. OVCC operates a mining facility in Alledonia, Ohio.

Carter M. Stewart, United States Attorney for the Southern District of Ohio, Randall K. Ashe, Special Agent in Charge of the U.S. Environmental Protection Agency (U.S. EPA), and Scott J. Nally, Director of the Ohio Environmental Protection Agency (Ohio EPA), announced the guilty pleas entered before U.S. Magistrate Judge Terence P. Kemp.

Terms of a plea agreement presented to the court call for \$7,050,000 in fines, penalties, restitution and improvements related to incidents that occurred in 2008 and 2010. In January and February 2008, the company negligently failed to sample and monitor the flow of pollutants discharged from its holding pond at Powhatan Mine Number 6 into Perkins Run, which flows into Captina Creek. The illegal discharge of coal slurry turned the creek black for 22 miles downstream.

In October 2010, a pipeline rupture at a coal preparation plant in Beallsville led to the discharge of untreated slurry into Captina Creek in violation of the company's wastewater discharge permit.

If the court accepts the terms of the plea agreement, OVCC will pay a criminal fine of \$500,000 and \$87,000 in restitution to the Ohio EPA for the analysis and protection of Captina Creek. In addition, to reduce the chances of spills in the future, OVCC certified that it has spent \$6 million to install a pipeline system with double-walled features to improve pipeline integrity. OVCC will implement and install such equipment and training as necessary to force a shutdown of the flow of slurry in the pipeline in the event of a pipeline failure.

The plea agreement also calls for the company to serve a one-year term of probation during which time they will develop a slurry release prevention and emergency response plan to protect public health and the environment, and submit the plan to Ohio EPA for approval.

“The defendant admitted discharging pollutants into Captina Creek without sampling or monitoring as required, and in the process impacted the Captina Creek ecosystem,” said Randall Ashe, Special Agent in Charge of EPA's criminal enforcement program in Ohio. “Besides paying considerable fines and restitution, the defendant has agreed to spend no less than \$6 million dollars on replacing its existing pipeline with a new and improved conveyance system.

Today's pleas send a clear message to other potential violators that corporations will be held responsible for environmental crimes."

Magistrate Judge Kemp will review the plea agreement and schedule future hearings in the case.

In a civil action, OVCC will pay the Ohio Department of Natural Resources a \$91,000 penalty and \$4,000 for all natural resource damages, which includes any loss of fish, amphibians, wildlife and any pending or unasserted penalties or assessments from ODNR for the 2010 slurry discharge from the pipeline incident. The company will also pay Ohio EPA an administrative penalty of \$184,000 for the 2008 slurry discharge and an administrative penalty of \$184,000 for the 2010 slurry discharge from the pipeline incident.

Two managers of OVCC have pleaded guilty to environmental crimes associated with the 2008 slurry release. On May 26, 2011, David Bartsch, Environmental Manager at OVCC, was sentenced to one year of probation, 104 hours of community service (to be served on company time), and a \$2,500 criminal fine based on his conviction for negligently failing to report discharges from the OVCC impoundment in January 2008. On June 22, 2011, Donald Meadows, a manager for OVCC, was sentenced to one year of probation, 156 hours of community service, and a \$2,500 criminal fine for negligently violating the Clean Water Act by allowing the discharge of collected slurries from an impoundment into Captina Creek on or about February 28, 2008.

Captina Creek is considered an Outstanding State Water by Ohio EPA and an Aquatic Resource of National Interest by the U.S. EPA. Captina Creek is also listed as an Exceptional Warm Water Habitat, the highest designation for stream habitat in Ohio. It is home to high-quality and pollution-sensitive fish and other wildlife populations, including the federally threatened species and state endangered Eastern Hellbender. Captina Creek is the only known location in Ohio where juvenile Eastern Hellbender salamanders have been found, indicating that the adults are reproducing.

Stewart commended the cooperative investigation by federal and state law enforcement agencies who investigated the case, and Assistant United States Attorney J. Michael Marous who is prosecuting the case.

###